



PLANNING COMMISSION SYNOPSIS

Wednesday, May 14, 2008

6:30 p.m. Regular Meeting

Council Chambers

First Floor, City Hall Wing

200 East Santa Clara Street
San José, California

Ash Kalra, Chair

Randi Kinman, Vice-Chair

Xavier Campos

Lisa Jensen

Matt Kamkar

Christopher Platten

Jim Zito

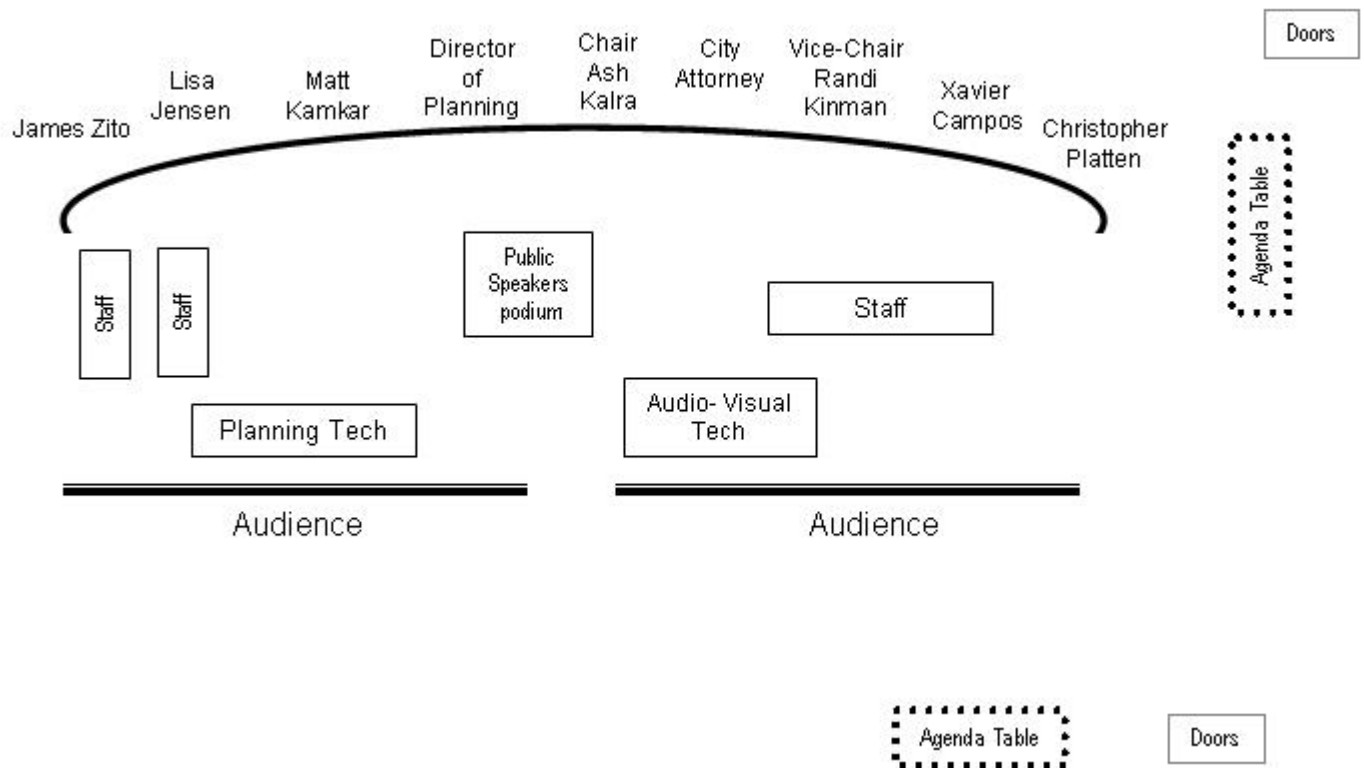
Joseph Horwedel, Director

Planning, Building and Code Enforcement

NOTE

To listen to the audio recording of the planning Commission, please go to the Planning website at: http://sanJosé.granicus.com/ViewPublisher.php?view_id=17

The Planning Commission is a seven-member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San José Planning Commission generally meets every 2nd and 4th Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at www.sanjoseca.gov/planning/hearings/planning_com.asp.

Audio for the Planning Commission hearings are recorded and broadcasted live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website: http://sanjose.granicus.com/ViewPublisher.php?view_id=17#planningCommission.

If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA
ORDER OF BUSINESS

1. ROLL CALL

2. DEFERRALS

- a. Consideration of Planning Commission Agenda management and length of public hearing concerns and determination on whether to proceed with remaining agenda items past 11:00 p.m., continue this hearing to a later date certain, or defer remaining items to the next regularly scheduled Planning Commission meeting date. To be heard by the Planning Commission no later than 11:00 p.m.

None.

3. CONSENT CALENDAR

- a. **CP07-105**. Conditional Use Permit to allow a tow yard facility on an existing parking lot, with a new 60' x 12' trailer proposed for business operations, and to associated hold lien sales on a 1.09 gross acre site in the LI Light Industrial Zoning District, located on the easterly terminus of North 4th Street and Archer Avenue (1610 N 4TH ST)(Clarita Fazzari, Owner; Matos Auto Towing and Transport (Bob Coen, Developer). Council District 3. SNI: None. CEQA: Incomplete. *PROJECT MANAGER, C.BURTON*

DENIED (6-0-1; KINMAN ABSENT)

- b. **CP08-009**. Conditional Use Permit Renewal to allow renewal of an existing eating, drinking, and entertainment establishment and late night use until 2:00 a.m. daily on a 0.32 acre site in the DC Downtown Primary Commercial Zoning District, located on the northeast corner of S. 2nd and E. San Salvador Streets (394 S 2ND ST)(Julia LeTrustee, Owner). Council District 3. SNI: University. CEQA: Exempt. *PROJECT MANAGER, E.SAMONSKY*

**APPROVED WITH CONDITION TO POST CONTACT NUMBER FOR
COMMUNITY ON SITE (6-0-1; KINMAN ABSENT)**

Pulled from consent by Commissioner Jensen with concern that Management Plan did not include contact information. Staff stated a condition could be added to the permit for posting such a contact number. Assistant Director Prevetti stated that some concerns would be better handled in the Entertainment Permit. City Attorney commented that most of the time, operational elements should not be included in the Conditional Use Permit.

Staff commented that planning staff would be working with Police to better identify an appropriate Management Plan for a land use permit. Staff clarified that the land use permit comes first, before the entertainment permit. Commissioner Zito asked how best to deal with effects on surrounding uses, and staff indicated the conditions were the appropriate place. Commissioner Zito stated that use of the patio could be noisy if allowed to be used until midnight, and staff clarified that no entertainment is allowed on patio and table area is somewhat detached.

- c. [CP08-016](#). Conditional Use Permit Renewal to allow a drinking, entertainment establishment and late night use until 2:00 a.m. daily in the DC Downtown Primary Commercial Zoning District, located on northeast corner of South Almaden Avenue and Post Street (44 S ALMADEN AV)(Gallagher Aloha Et Al, Owner). Council District 3. SNI: None. CEQA: Exempt. *PROJECT MANAGER, M.MERSICH*

APPROVED (6-0-1; KINMAN ABSENT)

Pulled from consent by Commissioner Jensen to clarify whether Conditional Use Permit renewal was a timely renewal.

- d. [CP08-021](#). Conditional Use Permit Renewal for an existing public eating, drinking and entertainment establishment and banquet facility on a 0.08 gross acre site in the DC Downtown Primary Commercial Zoning District, located on the northwest corner of South 1st Street and West San Salvador Street (399 S 1st St.)(Rostam Llc Kasra Araghi, Owner). Council District 3. SNI: None. CEQA: Exempt. *PROJECT MANAGER, L.McMORROW*

APPROVED (6-0-1; KINMAN ABSENT)

Pulled from consent by Commissioner Jensen to clarify whether Conditional Use Permit renewal is timely. Applicant clarified hours to 4:00 a.m. only for banquets that are pre-arranged.

- e. [CP08-025](#). Conditional Use Permit to allow a tire recycling facility at an existing industrial building, no exterior changes and no outdoor storage on the site. All activities will be indoors. The site is located in the IP Industrial Park Zoning District, at 1919 Monterey Road, Unit #2, APN: 455-04-036 (Wilson And Theresa Hui, Owner). Council District 7. SNI: None. CEQA: Exempt. *PROJECT MANAGER, C.BURTON*

APPROVED (6-0-1; KINMAN ABSENT)

The following items are considered individually.

4. PUBLIC HEARINGS

- a. Review and Recommendation of the [Strong Neighborhoods Initiative Washington Neighborhood Improvement Plan Amendment](#) to the City Council. Council Districts 3 and 7. SNI: Washington. CEQA: Strong Neighborhoods Initiative Program EIR, Resolution No 71045. *PROJECT MANAGER, J.YOSHIDA*

RECOMMENDED APPROVAL (6-0-1; KINMAN ABSENT)

Five members of the community (Rosa Perieda, Steve Barrientos, Mary Guzman, Paul Alvarado, and Debbie Morillo) representing the Washington Area Community Coalition gave a brief presentation in support of the Washington SNI Neighborhood Improvement Plan as a vision for the improvement of the community.

Members of the Planning Commission thanked the community members for their participation in the proposition of the plan.

Commissioner Jensen made a motion to recommend approval of the Plan Amendment to the City Council and to encourage community members to continue to dedicate their time and resources toward the Plan.

- b. **ORDINANCE AMENDMENT**. An ordinance of the City of San José amending title 20 of the San José Municipal Code, the zoning code, to add section 20.30.530 to provide a height exception for solar photovoltaic power generation systems mounted on the surface of an accessory building or structure, and to amend sections 20.20.100, 20.30.100, 20.30.500, 20.40.010, 20.50.010, 20.70.100, 20.100.500, 20.100.610, and 20.100.1030, and amend section 13.48.510 of chapter 13.48, of the San José Municipal Code, Historic Preservation, all to clarify that a building permit may be issued for installation of solar photovoltaic power generation systems that conform to all of the development standards of the zoning district in which they are located. CEQA: Exempt, PP08-053. Deferred from 05/07/08. *PROJECT MANAGER, S.DO*

RECOMMENDED APPROVAL (6-0-1; KINMAN ABSENT)

Commissioner Kamkar requested clarification that the proposed Ordinance would allow flexibility for the angle of the photovoltaic panel. Commissioner Zito asked if the Ordinance would apply to Secondary Units. Staff explained that the proposed Ordinance would provide sufficient flexibility for optimizing the angle of the photovoltaic panels and that the height limit for Secondary Units, 18 feet, can accommodate photovoltaic panel installations as most units are well below this height limit.

- c. **ORDINANCE AMENDMENT**. An Ordinance of the City of San José Amending Chapter 20.70, Section 20.70.010, of Title 20 of the San José Municipal Code to expand the area to which the downtown zoning regulations apply to include the area bounded by Fourth Street, St. John Street, Seventh Street, and San Fernando Street, and to make other related technical or clarifying changes. CEQA: Final San José Downtown Strategy 2000 Environmental Impact report (EIR), Resolution No. 72767. Deferred from 4/21/08. *PROJECT MANAGER, E.SAMONSKY*

RECOMMENDED APPROVAL (6-0-1; KINMAN ABSENT)

Commissioner Kamkar asked if the proposed Ordinance would affect the City's revenue stream and if this was a reason for not including expansion to the West of Route 87. Staff responded that the General Plan already designates these areas as part of the Downtown Core so that revenue was not an issue and that there were other reasons for not including the area west of Route 87.

- d. **CP07-101**. Conditional use Permit to construct a four-story 69-unit residential care and service facility (senior assisted living) with a below grade parking garage on a 0.5 gross acre site in the CP Pedestrian Commercial Zoning District, located on the southwest corner of Bascom Avenue and Surrey Place (2517 S. Bascom Ave)(Lena Basso Trustee & et al, Owner; Sunrise Senior Living, Developer). Council District 9. SNI: None. CEQA: Mitigated Negative Declaration. Deferred from 04/21/08, 05/07/08. *PROJECT MANAGER, M.DAVIS*

DROPPED FOR RENOTICE (TENTATIVELY FOR JUNE 11, 2008)

- e. **PDC07-033**. Planned Development Rezoning from R-1-5(PD) Planned Development Zoning District and A - Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 379 single-family attached residences and 30,000 square feet for commercial uses, the demolition of two single-family residences and nine accessory structures, and the preservation/relocation of one single-family residence and one fruit stand on a 20.18 gross acres site, located on the southeast corner of Berryessa Road and Jackson Avenue (Pepper Lane Berryessa LLC & Myra Reinhard, Owners; Pulte Home Corporation, Developer). Council

**APPROVED WITH MODIFICATIONS TO THE DEVELOPMENT
STANDARDS RELATED TO CONFORMANCE WITH THE
RESIDENTIAL GUIDELINES**

6-0-1 (KINMAN ABSENT)

Staff gave a brief overview of the project. Planning staff explained that the project was revised during the deferral period and that an addendum to the original staff report and a memorandum explaining staff's response to comments received on the Mitigated Negative Declaration were included in the Planning Commission packet.

The applicant's representative, Erik Schoennauer gave a description of the project scope and explained how additional open space has been provided on the project site.

A community member commented that she supported the General Plan Amendment on this site in 2006 and at that time with the understanding that the project would fully comply with the Residential Design Guidelines. She noted that at the General Plan Amendment stage, there was discussion by the applicant about providing a quality gathering space that would be provided on this site, which could be accessible to those outside the new development. She noted that the revised site plan still did not provide adequate amounts of common open space.

The applicant's representative, Erik Schoennauer, responded to the comment that there was insufficient common open space by showing the configuration of the proposed open space. He commented that the common open space totals 67,000 square feet and is 1.54 acres of land. He noted that the common open space works together with the pedestrian connections on the site and that all the open space is now linked, through pedestrian accessibility together.

Commissioner Kalra asked the applicant if the open space area that will now potentially include the relocated historic Vincent Nola house has been enlarged. Staff responded that that portion of open space has not been enlarged.

Commissioner Zito commented that open space # 3 did not seem to function as open space and it seemed like a Paseo. The applicant's representative, Erik Schoennauer, responded that open space #3 is much larger than a Paseo and it will not function like a paeso. He stated that bocce ball courts and barbeque grills will be placed in that area.

Commissioner Zito asked where all the additional 39,000 square feet of open space has been added in the revised site plan. The applicant's representative, Erik Schoennauer, responded that open space #5 is brand new and that before staff did not count some spaces because they were isolated or oddly configured, but the revised site plan connected these spaces and improved them so they are now being counted.

Commissioner Kamkar asked the applicant for the percentage of tandem spaces provided by the project. He also asked about the total parking and what the width of the garages was for the non-tandem garages. The applicant's representative, Erik Schoennauer, responded with the percentage of tandem spaces and that the garage width for non-tandem garages was 18 feet.

Commissioner Jensen asked the applicant whether the footprint of the relocated historic house was being considered in the open space calculations. Staff responded that the footprint, which was over 2,000 square feet, was being considered open space. Commissioner Jensen also asked the applicant what green building strategies were proposed. The applicant's representative, Erik Schoennauer, responded that the project is working off the build it green checklist. Commissioner Jensen commented that this community is void of trees and the proposed project should plant several on site.

Staff commented that based on some comments received the day before from community member Kerri Hamilton, the project will also including traffic calming measures on the new private street that will connect Berryessa Road and Jackson Avenue. Staff also commented that at the PD permit stage, staff will work with the applicant to determine the number of residential units which will be conditioned to have the issuance of building permits withheld until the full development of the commercial component is complete.

Commissioner Zito asked staff what this project is providing to meet the PDO/PIO credit. Parks Staff commented that the project will be paying in lieu fees to develop an adjacent park.

Commissioner Zito asked staff whether open space areas are consulted with the Parks Department. Staff commented that open space is evaluated based on criteria listed in the Residential Design Guidelines, including common open space's accessibility, distribution, size, and functionality. Staff commented that the Parks Department evaluates a project's open space for whether it receives credit for PDO/PIO requirements, but not for the functionality of open space, which does not receive credit.

Commissioner Zito used a football analogy to comment that the project started out poor and now it is better, but it still is not a good project. He stated that this site is approximately 20 acres in size with no real issues from keeping it from fully meeting the Residential Design Guidelines. Commissioner Zito made a motion to approve the project with the condition that it conforms to the Residential Design Guidelines.

Staff asked for clarification as there are several criteria in the Residential Design Guidelines and that the project specifically did not conform to the Guidelines standards for separation of three story structures from single-family rear yards(the Guidelines call for a separation of 2 feet horizontal separation for every 1 foot of building height of the third story building, and the proposed project is providing a 50 foot aggregate setback and a 30 foot minimum setback in one location) for provision of common open space (the Guidelines call for 200 square feet per unit, only 175 square feet per unit are being provided by the proposed project), and for internal separation between three-story buildings (the Guidelines call for 30 feet of separation, only 20-26 feet of separation are being provided by the proposed project).

Commissioner Zito clarified his motion was for the project to meet all the Residential Design Guidelines as well as better deal with the separation between the commercial portion of the site and the commercial portion. Commissioner Zito's motion passed 6-0-1 (Kinman absent).

- f. **PDC07-072**. Planned Development Rezoning for a Master Plan for the Bellarmine College Preparatory Campus. The project includes demolition of about 47,000 square feet of existing buildings and the new construction of 135,884 square feet resulting in 272,578 square feet (total) on an existing private high school on an approximately 30.05 gross acre site located in the area generally bounded by W. Hedding Street, Caltrain right-of-way, Stockton Avenue, Emory Street and Elm Street (960 W. Hedding Street)(Bellarmine College Preparatory, Owner). Council District 6. SNI: None. CEQA: Mitigated Negative Declaration. Deferred from 05/07/08. *PROJECT MANAGER, E.SCHREINER*

DEFERRED TO MAY 28, 2008

5. PETITIONS AND COMMUNICATIONS

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
- 1) Responding to statements made or questions posed by members of the public; or
 - 2) Requesting staff to report back on a matter at a subsequent meeting; or
 - 3) Directing staff to place the item on a future agenda.
- None.*

6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES

7. GOOD AND WELFARE

- a. Report from City Council
- b. Commissioners' report from Committees:
- 1) Norman Y. Mineta San José International Airport Noise Advisory Committee (Campos).
 - 2) Parks Funding Subcommittee (Zito).
 - 3) Envision San José 2040 General Plan Update Process (Kamkar).
- c. Review of synopsis for 05/07/08.
- To be done at 5/28 meeting.*
- d. Consider Study Session dates and/or topics.

8. ADJOURNMENT

2008 PLANNING COMMISSION MEETING SCHEDULE

Date	Time	Type of Meeting	Location
January 16	6:30 p.m.	Regular Meeting	Council Chambers
January 30	6:30 p.m.	Regular Meeting	W118 & W119
February 13	5:00 p.m.	Study Session <i>Review & Comment: Planning Department Website</i>	Room T-332
February 13	6:30 p.m.	Regular Meeting	Council Chambers
February 27	5:00 p.m.	Study Session <i>CEQA: Reviewing Environmental Impact Reports</i>	Room T-332
February 27	6:30 p.m.	Regular Meeting	Council Chambers
March 12	5:00 p.m.	Study Session <i>North San José</i>	Room T-332
March 12	6:30 p.m.	Regular Meeting	Council Chambers
March 26	5:00 p.m.	Study Session <i>Green Vision/Develop City Policy</i>	Room T-332
March 26	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
April 9	5:00 p.m.	Study Session <i>Riparian Corridor Policy</i>	Room T-332
April 9	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
April 21 (Monday)	5:00 p.m.	Study Session <i>Inclusionary Housing & Housing Element</i>	Room T-332
April 21 (MONDAY)	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
May 7	5:00 p.m.	Study Session <i>Capital Improvement Program</i>	Room T-1654
May 7	6:30 p.m.	Regular Meeting	Council Chambers
May 14	6:30 p.m.	Regular Meeting	Council Chambers
May 28	6:30 p.m.	Regular Meeting	Council Chambers
June 11	6:30 p.m.	Regular Meeting	Council Chambers
June 25	6:30 p.m.	Regular Meeting	Council Chambers
July 16	6:30 p.m.	Regular Meeting	Council Chambers
August 6	6:30 p.m.	Regular Meeting	Council Chambers
August 20	6:30 p.m.	Regular Meeting	Council Chambers
September 10	6:30 p.m.	Regular Meeting	Council Chambers
September 24	6:30 p.m.	Regular Meeting	Council Chambers
October 8	6:30 p.m.	Regular Meeting	Council Chambers
October 22	6:30 p.m.	Regular Meeting	Council Chambers
November 5	6:30 p.m.	Regular Meeting	Council Chambers
November 19	6:30 p.m.	Regular Meeting	Council Chambers
December 3	6:30 p.m.	Regular Meeting	Council Chambers
December 10	6:30 p.m.	Regular Meeting	Council Chambers

CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior, which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.